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File No. O. Hindu Law

Legal DEPARTMENT

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Subject:—

Opinions regarding Hindu Law. p3E

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C O N T E N T S.

Legal Department File No. O. Hindu Law/47

Serial No.	Compilation No.	Subject	Pages
		Opinions regarding Hindu Law.	
O.No. 617 13/6/1947		Whether a marriage between two Hindus celebrated by a Hindu priest is valid in British India for civil purposes without the necessity of observing any other formalities before or after the marriage.	
		Whether a certificate issued by a Police Patel or a simple declaration of the priest who celebrated the marriage is a sufficient document in British India to make a proof of the marriage.	1-2

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In regard to the marriage of two Hindus of Goa, Portuguese citizens, who married religiously at Castle Rock according to their rite in a temple before a priest in 1941, there being no civil Registration office there, the Consul for Portugal has raised the following two points :-

(1) If a marriage between two Hindus celebrated by a Hindu priest is valid in British India for civil purposes without the necessity of observing any other formalities before or after the marriage.

(2) If a certificate issued by a Police Patel or a simple declaration of the priest who celebrated the marriage is a sufficeint document in british India to make a proof of the marriage.

Question 1:- Ordinarily two ceremonies are essential to the validity of a marriage namely;

(i) invocation before the sacred fire, and

(ii) suptapadi, that is, the taking of seven steps by the bride-groom and the bride jointly before the sacred fire.

The marriage becomes completed when the seventh step is taken; till then it is imperfect and revocable. Consummation is not necessary to make a marriage complete and binding.

However a marriage may be completed by the performance of ceremonies other than those referred to above, where it is allowed by the caste to which the parties belong (see Mulla's Hindu Law 9th edition p. 509)-Consequently if according to the custom of the caste to which the two Hindus in the present case belong their marriage was solemnized by a Hindu priest it would be valid and no other formalities either before or after the marriage would be necessary.

Question 2:- Where it is provided that a marriage was performed in fact, the Court will presume that it is valid in law and that the necessary ceremonies were performed (I bid p. 510). Consequently what is necessary to prove is that a marriage was in fact performed. There is no law in this Province requiring or authorising a Police Patel

to issue a certificate of marriage or a priest to make a declaration in proof of a marriage. A certificate issued or a declaration by such person would not be an authentic proof of marriage. The evidence of a person witnessing or of a priest solemnizing a marriage would be a better proof of the marriage.

Id/ P.M.L , 13/6/47

~~O.S.~~ Remembrancer of Legal Affairs.

U.O. to P. & S.D. No. 6127 dated the 13th June 1947.